ceptible to contagion and disease."[12] Such matters have, in fact, been regarded as elements of a nuisance, the courts thus recognizing, in the light of psychology, the destructive effect of such things upon the emotions and sanity of people even of normal sensibilities, not given to distorted or fanciful imaginations. Other illustrative cases are those dealing with the natural abhorence and fear which an ordinary person has for hospitals for cure of cancer,[13] tuberculosis,[14] or leprosy,[15] and asylums for the insane,[16] notwithstanding scientific evidence tended to show that such institutions were not, in fact, a direct menace to health. There is much to be said in favor of such a doctrine as is here suggested. The presence of a crematory in the midst of a populous residential district might cause actual physical discomfort to the people in the neighborhood and greatly lessen property values and so constitute a real and substantial nuisance. M. C. B.

CONSTITUTIONAL LAW: REGULATION OF EMPLOYMENT.—The regulation of employment, in several phases, has recently received judicial consideration in *Commonwealth v. Riley*,[1] *Riley v. Massachusetts*,[2] *State v. Bunting*,[3] and *Stettler v. O'Hara*.[4] These cases illustrate the increasing flexibility with which the courts are viewing the exercise of the police power by the legislature.

As long ago as 1876 the Massachusetts court upheld the constitutionality of a law restricting the hours of employment of women and children in a single manufacturing service.[5] And this principle was authoritatively settled in the United States Supreme Court in 1908.[6] The recent *Riley* and *Stettler* cases above cited, are applications of this principle. Likewise, where legislation restricting the employment of men is found to be based on the fact that the employment in question is especially dangerous to health, the courts have upheld the legislation.[7] On the other hand there has been a disposition on the part of the courts to scrutinize the effect of such legislation, and, where it seemed to the judicial mind that the employment in which hours of labor were restricted was not especially unhealthful and dangerous, to hold the legislation unconstitutional.[8]

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[12] Densmore et al. v. Evergreen Camp No. 147, W. of W. (1900), 61 Wash. 230, 112 Pac. 255.

[13] Stolter v. Rochelle et al. (1910), 83 Kans. 86, 109 Pac. 788.

[14] Everett v. Paschell (1910), 61 Wash. 47, 111 Pac. 879.

[15] Baltimore City v. Fairfield Imp. Co. (1898), 87 Md. 352, 39 Atl. 1081, 40 L. R. A. 494, 67 Am. St. Rep. 344.

[16] Shepard et al. v. City of Seattle (1910), 59 Wash. 363, 109 Pac. 1067.

[1] (1912), 210 Mass. 387, 97 N. E. 367.

[2] (1914), 232 U. S. 671.

[3] (Ore., Mar. 17, 1914), 139 Pac. 731.

[4] (Ore., Mar. 17, 1914), 139 Pac. 743.

[5] Com. v. Hamilton (1876), 120 Mass. 383.

[6] Muller v. Oregon (1908), 208 U. S. 412, 28 Sup. Ct. 324.

[7] Holden v. Hardy (1898), 169 U. S. 366, 18 Sup. Ct. 383.

[8] Lochner v. New York (1905), 198 U. S. 45, 25 Sup Ct. 539; State v. Miksicek (1910), 225 Mo. 561, 125 S. W. 507.

A more liberal, and, it is submitted, sounder, view of legislation limiting the hours of labor of adults, whether men or women, is now being taken. And one of the cases cited above, *State v. Bunting*,[9] in a well reasoned opinion, upholds a statute which prohibits the employment of any person in any mill, factory, or manufacturing establishment for more than ten hours in one day. The court says: "Legislative regulation of the hours of labor of men and that of women differ only in the degree of necessity therefor. Obviously, in addition to the reasons declared in the law, it was in the legislative mind that the regular employment of persons for longer hours in factories where different kinds of machinery and facilities are operated under the present day high-pressure power would tend to increase the danger of accidents, and to a greater extent jeopardize life and limb, thereby increasing the demand for compensation for such injuries, a portion of which, under certain circumstances, would ultimately be borne by the state." Such legislation, and legislation of even wider character, finds its constitutional defense in the principle stated by Mr. Justice Holmes: "It may be said in a general way that the police power extends to all the great public needs. . . . It may be put forth in aid of what is sanctioned by usage, or held by the prevailing morality or strong and preponderant opinion to be greatly and immediately necessary to the public welfare."[10] W. C. J.

CONSTITUTIONAL LAW: REGULATION OF TAKING FISH AND GAME.—The power of the state to control or regulate the taking of fish and game and their preservation for the benefit of the people at large, is well settled.[1]

In the Supreme Court of the United States, in the case cited, it was said: "It is, perhaps, accurate to say that the ownership of the sovereign authority is in trust for all the people of the State, and hence by implication it is the duty of the legislature to enact such laws as will best preserve the subject of the trust and secure its beneficial use in the future to the people of the State. But in any view, the question of the individual enjoyment is one of public policy and not of private right."

The question in California is, how far the constitution determined the question of individual enjoyment as a matter of public policy and precluded the legislature from making regulations relative thereto? In 1910 a new section was added to the constitution, as follows:

> "The people shall have the right to fish upon and from the public lands of the state and in the waters thereof, excepting upon lands set aside for fish hatcheries, and no land owned by the state shall ever be sold or transferred without re-

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[9] (Ore., Mar. 17, 1914), 139 Pac. 731.
[10] Noble State Bank v. Haskell (1911), 219 U. S. 104, 31 Sup. Ct. 186.
[1] Geer v. Connecticut (1896), 161 U. S. 519, 16 Sup. Ct. 600.